

DOCKET NO: 248267US2



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

HIROKI SHINKAWATA : EXAMINER: SCOTT R. WILSON

SERIAL NO: 10/766,013 :

FILED: JANUARY 29, 2004 : GROUP ART UNIT: 2826

FOR: SEMICONDUCTOR DEVICE AND
SEMICONDUCTOR DEVICE
MANUFACTURING METHOD

RESTRICTION RESPONSE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement stated in the Office Action of June 6, 2005, Applicant provisionally elects with traverse Group I: Claims 1-8 drawn to a device classified in class 257, subclass 296. Applicant reserves the right to file one or more divisional applications directed to the non-elected claims.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct species, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The outstanding Office Action asserts that Claims 1-8 are drawn to a device classified in class 257, subclass 296, and that Claims 9-14 are drawn to a method classified in class 438, subclass 238. It therefore follows that the claims of the present application would only have to be searched in two sub-classes. Furthermore, since electronic searching is commonly

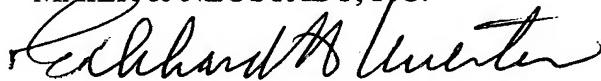
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Reply to Office Action of June 6, 2005

performed, a larger search could even be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicant respectfully traverses the Election Requirement on the grounds that a search and examination of the entire application would not place a serious burden on the Examiner, whereas it would be a serious burden on Applicant to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-14 be conducted.

Respectfully submitted,

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